IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.8.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.22694 of 2003

M/s.Bradhan Packaging Industries,
Shed No.12, SIDCO Industrial Estate,
Milavittan (Po),
Tuticorin - 628 002. .. Petitioner

vs.

1. The State of Tamil Nadu
   represented by the Secretary to Government
   Department of Commercial Taxes
   and Religious Endowments,
   Fort St. George,
   Chennai - 600 009

2. The Deputy Commercial Tax Officer III,
   Commercial Taxes Building,
   Tuticorin .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of declaration declaring that Section 2(c), Section 2(g) and Section 3 of The Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, along with Serial No.19 of G.O.Ms.No.28, Commercial Taxes, dated 27.3.2002, as it existed prior to the amendment, dated 1.7.2002, as ultra vires Articles 14,19 (1)(g), 265, 269, 301, 304(a) and 304 (b) of the Constitution of India and therefore, unenforceable and of no effect insofar as the petitioner herein is concerned.

For petitioner : Mr.A.P.Srinivas Babu
For respondents : Mr.Shanmugasundaram
Government Advocate

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O R D E R

Mr.Shanmugasundaram, the learned Government Advocate, takes notice for the respondents.

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2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

3. The learned counsel appearing on behalf of the petitioner has submitted that the issue involved in the present writ petition is covered by an order of a Division Bench of this Court, dated 22.3.2007, made in ITC LIMITED Vs. STATE OF TAMIL NADU AND ANOTHER ((2007)7 VST 367 (Mad)) wherein the constitutional validity of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, and the various notifications issued by the State Government in exercise of the powers conferred by Section 15 of the Act was questioned.

4. The Division Bench, by its order, dated 22.3.2007, had held, in paragraph 48 of the said order, that "the levy of entry tax on goods imported from other states to the State of Tamil Nadu and from abroad is not compensatory in nature, since the State Government could not discharge its burden by placing materials before the Court that payment of levy of entry tax is reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to the tax payers. The impugned levy imposing entry tax being discriminatory is also violative of article 304 (a) of the Constitution. We, therefore, hold that the demand and collection of entry tax under the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, is illegal, unauthorised and violative of article 301 of the Constitution. The writ petitions are allowed as above and the levy and demand notices issued would stand quashed."

5. Mr.Shanmugasundaram, the learned Government Advocate, appearing on behalf of the respondents had submitted that the issue that has arisen for consideration in the present writ petition is covered by the order passed by the Division Bench.

6. On such submissions being made by the learned counsels appearing on behalf of the petitioner as well as the respondents, the writ petition is allowed, in view of the said order of the Division Bench of this Court, dated 22.3.2007. No costs.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government
   The State of Tamil Nadu
   Department of Commercial Taxes
     and Religious Endowments,
   Fort St. George,
   Chennai - 600 009

2. The Deputy Commercial Tax Officer - III,
   Commercial Taxes Building, Tuticorin.

+ One cc to mr. A. P. Srinivas Babu, Advocate SR 52166
+ one cc to Spl Govt Pleader (Taxes) SR 52065
tm (CO)
sg 5/9/07 W.P.No.22694 of 2003

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